

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:04-CR-106 MAC
	§	
DONTAE ROMAIN BROWN (10)	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the Government’s request for revocation of Defendant’s supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on October 24, 2017, to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Tracey Batson.

On February 24, 2005, Defendant was sentenced by the Honorable Richard A. Schell, United States District Judge, to a sentence of one hundred eighty-eight (188) months imprisonment followed by a five (5) year term of supervised release for the offense of Conspiracy to Possess with Intent to Distribute Cocaine Base. On November 14, 2011, the imprisonment portion of the sentence was reduced to one hundred twenty (120) months. Defendant began his term of supervision on February 1, 2013. On October 21, 2013, the terms of supervised release were modified to include one hundred twenty (120) days of home detention with electronic monitoring.

On June 19, 2015, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the “Petition”) (Dkt. 1602). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase,

possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; (3) Defendant shall notify the probation officer ten (10) days prior to any change of residence or employment; and (4) Defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.

The Petition alleges that Defendant committed the following violations: (1) On July 10, 2013, Defendant was arrested by the Paris Police Department for Forgery of a Financial Instrument and Engaging in Organized Crime. Defendant was charged in the 6th Judicial District Court, Lamar County, Texas, with Engaging in Organized Criminal Activity, a 3rd Degree Felony, and forgery of Financial Instrument, a State Jail Felony, in Case Number 25624. On January 23, 2015, the court issued a warrant for Defendant's arrest. These charges remain pending; (2) On December 22, 2014, Defendant was arrested by the Mesquite Police Department for Public Intoxication. Defendant paid a \$315.00 case bond and was released from jail the same date. Defendant was charged with Public Intoxication in the City of Mesquite Municipal Court, in Case Number 11113823. On February 24, 2015, a plea of guilty was entered by the court, and the cash bond was applied toward the fine and court costs; (3) On January 16, 2015, Defendant was arrested by the Dallas Police Department for Driving While Intoxicated. Defendant was charged in the Criminal District Court #4, Dallas County, Texas, with Driving While Intoxicated, a 3rd Degree Felony, in Case Number F1551408. The court issued a \$100,000.00 bond. As of the writing of this Petition, Defendant remains in custody and this charge is pending; (4) On May 15, 2013, Defendant quit his job at Wendy's Restaurant and failed to notify the probation officer within ten (10) days of his change of employment; and (5) During Defendant's arrest on July 10, 2013, Defendant was arrested along with another individual who

entered a bank and cashed a forged check. Defendant violated his conditions of supervision by associating with someone engaging in criminal activity.

At the hearing, Defendant entered a plea of true to Allegation 1. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, and having considered the arguments presented at the October 24, 2017, hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twenty-one (21) months, with no supervised release to follow, to run consecutively to any other sentence being served. The Court further recommends that Defendant's term of imprisonment be carried out in FCI Texarkana, if appropriate.

SIGNED this 31st day of October, 2017.

A handwritten signature in black ink, appearing to read 'KLPJ', is written over a horizontal line.

KIMBERLY C. PRIEST JOHNSON
UNITED STATES MAGISTRATE JUDGE